



City of Seattle

Gregory J. Nickels, Mayor
Department of Planning and Development
D. M. Sugimura, Director

**CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR OF
THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

Application Number: 2204190
Applicant Name: Frank Hofmeister for Dunato's Marine Service and Supply
Address of Proposal: 2309 N. Northlake Way

SUMMARY OF PROPOSED ACTION

Shoreline Substantial Development Permit for future construction of a 2,400 square foot minor vessel repair structure. No change in parking.

The following approvals are required:

- **Shoreline Substantial Development Permit** – (SMC Chapter 23.60)
- **SEPA - Environmental Determination** - (SMC Chapter 25.05)

SEPA DETERMINATION: ☐ Exempt ☐ DNS ☐ EIS

☒ DNS with conditions*

☐ DNS involving non-exempt grading or demolition or
involving another agency with jurisdiction.

BACKGROUND DATA

Site Area and Vicinity Development

The subject site is located on a Lake Union waterfront parcel along N. Northlake Way between Sunnyside Avenue N. and Waterway number 18. Corliss Avenue N. terminates at N. Northlake Way at this location. The site is zoned Industrial Buffer with an unlimited height limit for

industrial uses and 45 feet for non-industrial uses (IB U/45) and is within an Urban Maritime (UM) shoreline environment. The site has an area of 99,888 square feet, of which, 68,478 square feet is submerged. The site is developed with commercial moorage and vessel repair.

The existing conditions include over water fixed structures totaling 14,211 square feet of area, and associated overwater moorage. The dry land portion of the site is developed with asphalt, concrete and five buildings that are used for vessel repair.

N. Northlake Way is designated as a minor arterial and is improved with a paved roadway, curb, angled parking, and a pedestrian walkway.

Most of the surrounding property abutting the site on the northern boundary is zoned Commercial 1 with a 30 foot height limit and is dedicated to street right of way (N. Northlake Way, Burke-Gilman Trail and N. Pacific Street). Property to the northeast and southwest is zoned IB U/45. Lake Union abuts the site on the southern boundary.

Proposal

The proposal is for a 32 foot by 75 foot fabric boat shelter that is to be used for vessel repair. Activities in the structure consist of vessel repair and painting. The height of the structure is 36 feet as measured from the shore side. A 109 square foot portion of the structure cantilevers over the bulkhead and is overwater. The structure already exists, but never received a Shoreline Substantial Development Permit (SSDP). A DPD Shoreline Inspector issued a notice of violation and required that the applicant obtain a SSDP.

Public Comment

No public comments were received during the public comment period, which ended on October 25, 2002.

ANALYSIS - SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

Substantial Development Permit Required

Section 23.60.030 of the Seattle Municipal Code provides criteria for review of a shoreline substantial development permit and reads: *A substantial development permit shall be issued only when the development proposed is consistent with:*

- A. *The policies and procedures of Chapter 90.58 RCW;*
- B. *The regulations of this Chapter; and*
- C. *The provisions of Chapter 173-27 WAC.*

Conditions may be attached to the approval of a permit as necessary to assure consistency of the proposed development with the Seattle Shoreline Master Program and the Shoreline Management Act.

A. THE POLICIES AND PROCEDURES OF CHAPTER 90.58.RCW

Chapter 90.58 RCW is known as the Shoreline Management Act of 1971. It is the policy of the State to provide for the management of the shorelines of the state by planning for and fostering all reasonable and appropriate uses. This policy contemplates protecting against effects to public health, the land use and its vegetation and wild life, and the waters of the state and their aquatic life, while protecting public right to navigation and corollary incidental rights. Permitted uses in the shoreline shall be designed and conducted in a manner to minimize, insofar as possible, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water.

The Shoreline Management Act provides definitions and concepts, and gives primary responsibility for initiating and administering the regulatory program of the Act to local governments. The Department of Ecology is to primarily act in a supportive and review capacity, with primary emphasis on insuring compliance with the policy and provisions of the Act. As a result of this Act, the City of Seattle adopted a local Shoreline Master Program, codified in the Seattle Municipal Code at Chapter 23.60. Development on the shorelines of the state is not to be undertaken unless it is consistent with the policies and provisions of the Act, and with the local master program. The Act sets out procedures, such as public notice and appeal requirements, and penalties for violating its provisions. As the following analysis will demonstrate, the subject proposal is consistent with the procedures outlined in RCW 90.58.

B. THE REGULATIONS OF CHAPTER 23.60

The regulations of SMC, Section 23.60.064 require that the proposed use(s): 1) conform to all applicable development standards of both the shoreline environment and underlying zoning; 2) be permitted in the shoreline environment and the underlying zoning district and 3) satisfy the criteria of shoreline variance, conditional use, and/or special use permits as may be required.

SMC 23.60.004 - Shoreline Policies

The Shoreline Goals and Policies which are part of the Seattle Comprehensive Plan's Land Use Element and the purpose and locational criteria for each shoreline environment designation contained in SMC 23.60.220 must be considered in making all discretionary decisions in the shoreline district.

The purpose of the UM environment is to preserve areas for water-dependent and water-related uses while still providing some views of the water from adjacent streets and upland residential streets. The use of the subject structure is considered a marine retail sales and service use which includes minor vessel repair and commercial moorage uses by definition in SMC 23.60.926. The use is considered water-related. Some views of the water are preserved as discussed under the specific development standards, view corridors, of the UM environment. The IG2 and the UM shoreline environment permits the proposed uses.

Development Standards

The subject structure is permitted subject to the general development standards in SMC 23.60.152 and the specific development standards in the UM environment in SMC 23.60.750. The proposed action is therefore subject to the following general and specific shoreline development standards:

General Development Standards for all Shoreline Environments (SMC 23.60.152)

These general standards apply to all uses in the shoreline environments. They require that all shoreline activity be designed, constructed, and operated in an environmentally sound manner consistent with the Shoreline Master Program and with best management practices for the specific use or activity. All shoreline development and uses must, in part: 1) minimize and control any increase in surface water runoff so that receiving water quality and shoreline properties are not adversely affected; 2) be located, designed, constructed, and managed in a manner that minimizes adverse impact to surrounding land and water uses and is compatible with the affected area; and 3) be located, constructed, and operated so as not to be a hazard to public health and safety. The repair structure, as conditioned and mitigated, is consistent with the general standards for development within the shoreline area. General development standards (SSMP 23.60.152) state that Best Management Practices shall be followed for any development in the shoreline environment. These measures are required to prevent contamination of land and water. The Stormwater, Grading and Drainage Control Code (SMC 22.800) places considerable emphasis on improving water quality. A condition is imposed on this permit pursuant to Shoreline and SEPA authority, to ensure that Best Management Practices are followed.

Development Standards for UM Shoreline Environments (SMC 23.60.750)

The development standards set forth in the Urban Maritime Shoreline Environment are as follows:

SMC 23.60.752 Height in the UM Environment

The development standard limits the height of structures to a maximum height of 35-ft.; however, SMC 23.60.752B allows for structures to exceed the maximum height limit if it is used for the “servicing of vessels”. The structure is 36 feet 2 inches as measured from the shore side and 41 feet 8 inches if measured from ordinary high water. The structure is for the servicing of vessels; therefore, it meets this development standard.

SMC 23.60.754 Lot coverage in the UM Environment

The existing submerged land at the site is approximately 68,478 sq. ft. The proposed lot coverage of the submerged portion of the site is 14,211 sq. ft., which is approximately twenty point seven (20.7) percent of the site and below the allowable lot coverage of fifty (50) percent.

The existing dry-land portion of the site is approximately 31,410 sq. ft. The proposed lot coverage of the dry-land portion of the site is 10,031 sq. ft., which is approximately thirty-one point nine (31.9) percent of the site and less than the allowable lot coverage of seventy-five (75) percent.

SMC 23.60.756 View corridors in the UM Environment

A view corridor or corridors of not less than fifteen (15) percent of the width of the lot shall be provided and maintained on all waterfront lots occupied by a water-dependent or water-related use. The site provides the required view corridor and the subject structure does not encroach into this corridor.

SMC 23.60.758 Regulated public access in the UM Environment

This use is considered a water-related use and is not required to provide public access.

SMC 23.60.760 Development between the Pierhead Line and the Construction Limit Line in the UM Environment in Lake Union and Portage Bay

The subject structure is not between the Pierhead and Construction limit line.

C. THE PROVISIONS OF CHAPTER 173-27 WAC

Chapter 173-27 of the WAC, sets forth permit requirements for development in shoreline environments and gives the authority for administering the permit system to local governments. The State acts in a review capacity. The Seattle Municipal Code Section 23.60 (Shoreline Development) and the RCW 90.58 incorporates the policies of the WAC by reference. These policies have been addressed in the foregoing analysis and have fulfilled the intent of WAC 173-27.

Summary

The proposed project, as conditioned, including the proposed mitigation, is consistent with the provisions set forth by 90.58 RCW, 173-27 WAC, and Chapter 23.60 SMC also known as the Seattle Shoreline Master Program (SSMP), thereby minimizing any adverse impact to the shoreline environment, to water quality, to the natural shoreline processes, and the surrounding land and water uses.

DECISION - SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

The Shoreline Substantial Development Permit is **CONDITIONALLY GRANTED** subject to the conditions listed at the end of this decision.

ANALYSIS - SEPA

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant dated September 12, 2002. The information in the checklist and the experience of the lead agency with review of similar projects form the basis for this analysis and decision.

The SEPA Overview Policy (SMC 25.05.665 D) clarifies the relationship between codes, policies, and environmental review. Specific policies for each element of the environment, certain neighborhood plans, and other policies explicitly referenced may serve as the basis for exercising substantive SEPA authority.

The Overview Policy states, in part: "Where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation," subject to some limitations. Under such limitations/circumstances (SMC 225.05.665 D1-7) mitigation can be considered. Thus, a more detailed discussion of some of the impacts is appropriate.

Short-Term Impacts

No short-term impacts are expected in that the structure already exists; therefore there will be no construction activity associated with this project.

Long-Term Impacts

Long-term or use related impacts are also anticipated from the proposal and include: increased overwater coverage and possibly increased human activity in the near-shore shoreline environment, which can lead to increased adverse impacts on fish habitat and migration routes. These long-term impacts may be considered minor in scope, if appropriately mitigated, resulting in a determination of non-significance. Therefore the long-term impacts merit more detailed discussion in relation to the need for mitigation.

Plants and Animals

The structure includes a portion that cantilevers over the water for a total of 106 sq. ft. Immediately adjacent to this portion of the structure is a 5,262 square foot floating boathouse accessed by piers.

Chinook salmon, a species listed as threatened under the Endangered Species Act (ESA) in March 1999, are known to inhabit Lake Union including the proposed project area. Under the City of Seattle's Environmental Policies and Procedures 25.05.675 N (2) it states in part: *A high priority shall also be given to meeting the needs of state and federal threatened, endangered, and sensitive species of both plants and animals.*

This project is proposed to occur in the near shore environment of Lake Union, which is habitat of Chinook salmon. The project site serves as a migration corridor as well as rearing area for juvenile Chinook salmon from the Cedar River and other water bodies in Water Resource Inventory Area 8. Additionally, predators of juvenile Chinook are known to inhabit areas under overwater structures and may use these areas as cover while preying on juvenile Chinook. Small mouth bass, an introduced predator of juvenile Chinook, also use the base of pilings under pier structures as nesting sites.

Overwater coverage reduces the amount and quality of natural habitat of juvenile Chinook salmon and provides habitat for a predator species of juvenile Chinook. The location of the overwater coverage is in between the bulkhead and another pier and a large floating boathouse. Removal of the 109 square feet of overwater coverage at this location would be difficult in this case in that the building already exists. Removal of a commensurate amount of overwater coverage at another location on the site would provide benefits to Chinook and mitigate the impacts generated from the existing overwater coverage. A condition will be placed on this permit to remove the 3 foot 9 inch by 30 foot floating pier providing access to the floating boathouse and replace it with a grated metal decking which is at least 50% open. No further SEPA conditioning is necessary.

Environmental Health/Water Quality

SEPA Policy 25.05.675-F provides the authority to mitigate impacts resulting from toxic or hazardous materials and transmissions. The location of the subject project is on the water's edge fronting on Lake Union and routinely includes the use of solvents, paints and other substances that could adversely impact water quality, plants and animals and the general welfare of the aquatic environment. In light of that, the proposal will be conditioned to provide a spill prevention and control plan that will help to limit the transmission of toxic or hazardous substances into the water. This plan will include a description of preventative measures that will be used to prevent toxic substances from entering Lake Union, measures that will be taken in the event of a toxic spill, and the requirement that an emergency spill kit be kept at the site. Additionally, trained personnel will be required to be on hand to implement the plan.

DECISION SEPA

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirement of the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.

- [X] Determination of Non-Significance with conditions. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21.030(2) (c).

- [] Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030(2)(C).

SHORELINE AND SEPA CONDITIONS

Prior to issuance of Master Use Permit

1. Revise plans to indicate the removal of the 3 foot 9 inch by 30 foot floating pier providing access to the floating boathouse and replace it with a grated metal decking which is at least 50% open and substantially the same size.
2. A spill prevention and control plan shall be prepared and submitted to Land Use Planner (Maggie Glowacki 206.386.4036). This plan shall include measures that will ensure that hazardous or toxic materials are controlled during normal operation of the business. Additionally, this plan shall include a description of preventative measures that will be used to prevent toxic substances from entering Lake Union, measures that will be taken, in the event of a toxic spill, and the requirement that an emergency spill kit be kept at the site. The appropriate number of personnel shall be trained to ensure the proper implementation of this plan.

Prior to Issuance of Building Permit

3. Attach the applicable conditions to the building permit set.
4. The approved spill prevention and control plan shall be included with the building permit plan set.

Prior to Final of Building Permit

5. Removal of the 3 foot 9 inch by 30 foot floating pier and replacement with a metal grated deck that is at least 50% open and substantially the same size.

Signature: (signature on file) Date: July 8, 2004
Jess Harris, AICP, Land Use Planner
Department of Planning and Development